

Douglas A. Ducey
Governor



Gilbert Davidson
Chief of Operations
and Interim Director

ARIZONA DEPARTMENT OF ADMINISTRATION

WATER QUALITY APPEALS BOARD

1110 WEST WASHINGTON ST • SUITE 155
PHOENIX, ARIZONA 85007

Telephone: (602) 542-1553

NOTICE AND AGENDA FOR A REGULAR MEETING OF THE ARIZONA WATER QUALITY APPEALS BOARD

Pursuant to Arizona Revised Statutes (A.R.S.) § 38-431.02, notice is hereby given to the members of the Water Quality Appeals Board and general public that the Arizona Water Quality Appeals Board (WQAB) will hold a **regular meeting** open to the public commencing on **January 03, 2019 at 10:00 a.m.** at the Arizona Department of Administration Building, 100 N. 15th Avenue, First Floor, WIFA Board Room; Suite 103, Phoenix, Arizona..

The agenda for this meeting follows. Any amendments or additions to the agenda will be available at least 24 hours prior to the meeting. The Board officer presiding at the meeting reserves the right to change the order of items on the agenda, except for public hearings set for a specific time. Pursuant to A.R.S. § 38-431.03(A)(3), the Board may vote to go into Executive Session to obtain legal advice from its attorney on any matter listed on the agenda. Executive sessions are not open to the public.

Pursuant to Title II of the Americans with Disabilities Act (ADA), the WQAB will not discriminate on the basis of disability in admission to and observation of its public meetings. Persons with a disability may request a reasonable accommodation such as a sign language interpreter, by contacting the Board's Office at (602) 542-1553. Requests should be made as early as possible to allow time to arrange the accommodation.

AGENDA

1. **Call to order and roll call.**
2. **17- 001 San Carlos Apache Tribe, Arizona Mining Reform Coalition, Concerned Citizens and Retired Miners Coalition, and Save Tonto National Forest Notice of Appeal of Agency Decision Re: Resolution Copper Mining AZDES Permit No. The Board will ratify the decisions reflected in the Board Order dated November 19th, 2018. Board Order is attached to this agenda.**
3. **Adjourn.**

DATED AND POSTED this 17th day of **December 2018** at **9:30a**

ARIZONA WATER QUALITY APPEALS BOARD

By: Connie Castillo
Connie Castillo, Clerk of the Board

A copy of the foregoing was mailed / emailed
this 17th day of **December 2018**

ARIZONA WATER QUALITY APPEALS BOARD:

Fred E. Brinker, P.E.
Keith Bowers

Dave Cole, Assistant Attorney General
Arizona Attorney General's Office
2005 N Central Ave.,
Phoenix, Arizona 85007
Attorney for the Water Quality Appeals Board

**BEFORE THE WATER QUALITY APPEALS BOARD
DEPARTMENT OF ADMINISTRATION
IN AND FOR THE STATE OF ARIZONA**

Arizona Mining Reform Coalition,
Concerned Citizens and Retired Miners
Coalition; Save Tonto National Forest,

Appellants,

Vs.,

State of Arizona, Arizona Department of
Environmental Quality

Respondent.

Resolution Copper Mining, LLC,

Intervenor.

San Carlos Apache Tribe,

Appellant,

Vs.,

State of Arizona, Arizona Department of
Environmental Quality

Respondent.

Resolution Copper Mining, LLC

Intervenor.

CASE NO. 17-001

**WATER QUALITY APPEALS BOARD
ORDER**

The Board having received and considered the Joint Statements filed by the parties pursuant to the Board's Order filed November 08, 2018,

IT IS ORDERED affirming the previous order remanding this matter to the ADEQ for the purpose of conducting a new source analysis as required by 40 C.F.R. Section 122.29(b).

IT IS FURTHER ORDERED that ADEQ shall begin work on the new source analysis as soon as practicable.

IT IS FURTHER ORDERED that, when the analysis is complete, ADEQ shall submit the written analysis and necessary supporting information to the Board.

IT IS FURTHER ORDERED that, in conducting the analysis, the ADEQ is permitted to disregard the following Findings of Fact reflected in the Administrative Law Judge's Decision filed October 15, 2018: Nos. 98 through 120, inclusive.

IT IS FURTHER ORDERED that, in conducting the analysis, the ADEQ is permitted to disregard the following Conclusions of Law reflected in the Decision identified above: Nos. 19 through 34, inclusive, and No. 68.

Other Issues

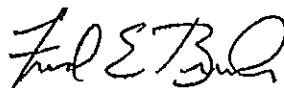
As to all other issues raised in the Notices of Appeal, Appellants did not establish that the Department's actions were arbitrary, unreasonable, unlawful, or based upon technical judgment that is clearly invalid.

Notice of Rehearing and Appeal Rights

Any party may move for a rehearing or review of this Order. Pursuant to A.R.S. § 41-1092.09 and A.A.C. R2-17-126, the motions must be filed with the Board within thirty-five (35) days from the date of mailing if the Order was served via certified mail. The petition must set forth legally sufficient reasons for granting the rehearing or review. The filing of a petition for rehearing or review is not required to preserve any rights of appeal to Superior Court that the party may wish to pursue.

DATED this 19th day of November, 2018.

WATER QUALITY APPEALS BOARD



Fred E. Brinker

A copy of the foregoing was mailed via U.S. Mail
this 19th day of November, 2018

WATER QUALITY APPEALS BOARD:

Fred E. Brinker

Keith Bowers

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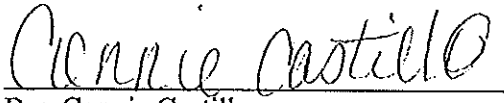
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Attorneys for Resolution Copper Mining, LLC

A copy of the foregoing was mailed via inter-agency mail
This 19th day of November, 2018

Dave Cole, Assistant Attorney General
Solicitor General's Office

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Phoenix, Arizona 85004
Attorney for the Water Quality Appeals Board



By: Connie Castillo
Clerk, Water Quality Appeals Board